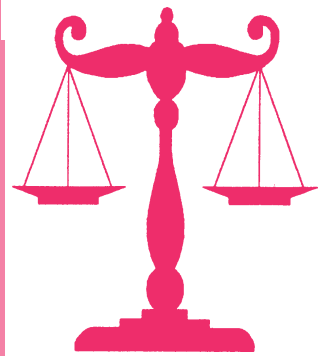


IOWA BenchPress



Newsletter of the Iowa Judicial Branch

January-February 2001

State of the Judiciary 2001: More Open, Accessible, and Accountable Courts

In his first State of the Judiciary address to the Iowa General Assembly, Chief Justice Louis Lavorato described plans to make Iowa's court system more open, accessible and accountable to the public. Iowa's new chief justice delivered his message on January 10 in the House chambers.

"With the aid of technology, we can provide a host of court services where they are needed, when they are needed, any time and any place. We have the momentum to do this now," said Chief Justice Lavorato. He went on to describe two programs currently under development, electronic public access and electronic document management, which would make court records available online, 24 hours a day, 7 days a week.

The electronic public access program would make court dockets available through the Internet. Chief Justice Lavorato reported that the Judicial Branch would be ready to launch this program once the legislature decides how to fund electronic public access to public records.

The electronic documents management system, EDMS, would enable electronic filing, storage and retrieval of court documents and files. The Judicial Branch will be testing the electronic document management system this year, in two counties and the appellate courts.

The Chief Justice announced that the new Iowa Judicial Branch Building, which is being built on the State Capitol campus, would be equipped to broadcast appellate court proceedings. He said that television broadcasts of court proceedings will "promote public understanding and, in turn, heighten respect for our courts and the rule of law."

Technology was not the only topic of the day. The Chief Justice reported that the Supreme Court has established a task force to assess the need for improvements in court interpreter services. "Our court system seems complex and intimidating, even to those who were born here. Imagine how it must seem to persons who do not speak or understand English," he said.

Chief Justice Lavorato also described a five-part plan adopted by the Supreme Court to measure Judicial Branch performance. The plan includes analyzing court statistics, surveying employees to gather their views of the court system, conduct-

ing focus groups of key court user groups, asking jurors to evaluate their court experience and encouraging the districts to hold employee discussion groups. "Believing we're on the right path is not enough," he said. "We need to objectively



Chief Justice Louis Lavorato

evaluate whether we are."

The picture was not all rosy. Chief Justice Lavorato informed the General Assembly the Judicial Branch is struggling to cope with a \$2.4 million deficit in its operating budget. The shortfall is due primarily to

Continued on page 3

Health Program Nets A Chosen Few

Congratulations to the following people who completed the "Life: It's A Balancing Act" health promotion:

Woodbury County: Wendy Hogan, Holly Wardell, Becky Morehead, Donna Smith.

Howard County: Janice Dybevik.

Cherokee County: Lisa Grashoff.

Last year the State kicked off a program called "New Century Challenge." This was administered through the Health Department for the State, and I do not know who completed that program. However, during the course of the year, many people sent me "walking" logs recording their exercise for each month. I'd like to recognize those people:

Bremner County: Margene Schmidt, Julie R. Kneip, Lisa Buege, Nancy Greenlee, Naeneen DeBower, Pam Slinger, Joyce Miller.

Capitol complex: Eric Boehlert, Diane Paine, Tamara Barrett.

Cherokee County: Cheryl Kaskey, Gloria Andersen, Lisa Grashoff.

Des Moines County: Ronda Bentley, Shelley Hohenthanner, Tamarra Washington, Dianna Briear, Colleen Ross, Lisa Snyder.

Howard County: Janice Dybevik, Connie Pecinovsky.

Muscatine County: Betty Cook, Vicki Burke, Pat Hetzler, Diane Boka.
Tama County: Ann Hendricks.

Washington County: Barb Liebe, Donna Mincer, Julie Johnson, Cathi Currie, Kelly Augustine, Sue Rich.

Woodbury County: Wendy Hogan, Karen Baldwin, Donna Smith, Becky Morehead, Darlene Mogensen, Stacy Schoenherr.

Thanks to all of you and keep up the good work.

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The *Iowa Bench Press* is published bimonthly by the State Court Administrator's Office to keep court personnel informed about court policy, projects, programs, and activities. Articles express the views of the authors or the editor and not necessarily those of the Iowa Judicial Branch.

The *Iowa Bench Press* welcomes your ideas, articles and criticisms. All rights are reserved to edit or reject any materials submitted for publication. Please direct your inquiries and news suggestions to:

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Visit the Iowa Judicial Branch web site at:
www.judicial.state.ia.us

State of Judiciary

Continued from page 1

the high cost of employee health insurance and other circumstances beyond the control of the Judicial Branch. He said, "Despite our best efforts to manage around the budget shortfall, we found no way to avoid the unpleasant task of cutting public services."

The Chief Justice reminded the General Assembly that "all three branches of government, in different roles, contribute to the administration of justice" and that the Judicial Branch relies on the other two branches for the resources needed to carry out its responsibilities. He added, "I am confident you will work with us in a bipartisan effort to respond to our present concerns. It is in the public's best interest to do so."

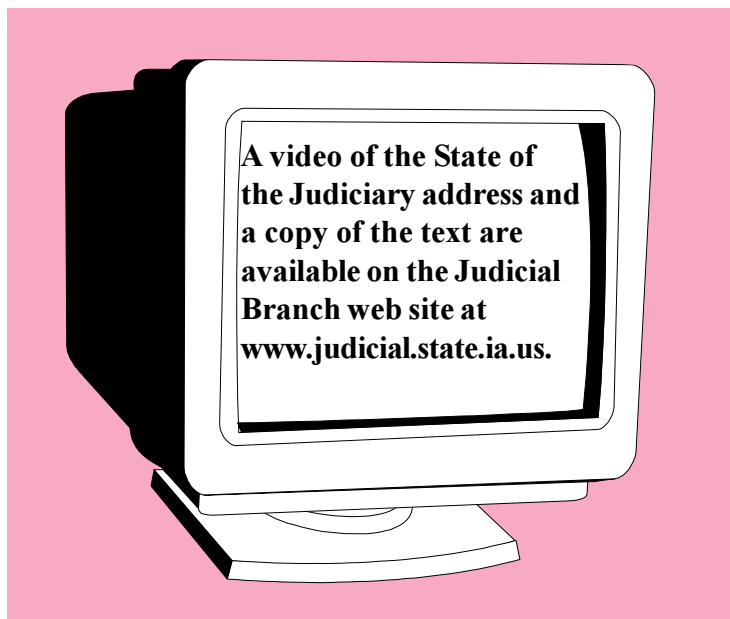


Iowa's appellate court judges and chief judges of the districts applaud Chief Justice Lavorato in the House chamber.

More Budget Woes for State Government: FY 2001 Revenue Growth Low

Lower than projected revenue could cause more problems for state government this year and in the future. For the first five months of the current fiscal year, state revenue grew 0.2% rather than the 3.5% that state officials had estimated. Lower revenues could result in more belt-tightening for state government, which is already struggling with increases in operating costs due to higher health insurance rates.

The state court administrator's office reports that court generated revenue from fines and fees are down 3.55% this fiscal year; December collections dropped 14%. Court officials are trying to determine the factors behind the downturn.



Senate Leadership



President of the Senate
Mary Kramer
Republican, 3rd Term
District 37 (Polk)



Senate Majority Leader
Stewart Iverson
Republican, 2nd Term
District 9 (Franklin, Hamilton,
Hardin, Wright)



Senate Minority Leader
Michael Gronstal
Democrat, 5th Term
Served 1 Term in House
District 42 (Pottawattamie)

Senate Appropriations Committee



Chair
Jeff Lamberti
Republican, 1st Term
Served 2 Terms in House
District 33 (Polk)



Ranking Member
Tom Flynn
Democrat, 2nd Term
District 17 (Delaware, Dubuque,
Jackson)

2001 Legislative Timetable

January 8 – First Day of Session

February 16 – Final Day for Individual Requests for Bill Drafts to LSB

March 16 – Final date for House & Senate bills to be reported out of committee

March 12-16 – House and Senate consider only their respective bills and unfinished business

March 19-30 – Debate not limited by rule

April 6 – Final date for House bills to be reported out of House committees and for Senate bills to be reported out of House committees

April 2-6 – House considers only Senate bills and unfinished business and Senate considers only House bills and unfinished business

April 9 – Only certain types of bills are eligible for consideration. (Appropriation, Ways and Means, Legalizing Acts, Cosponsored by majority and minority leaders, Companion bills sponsored by

House and Senate majority leaders, Conference Committee Reports, Bills passed by both Houses in different forms, Concurrent or simple resolutions, Bills on the Veto calendar, Administrative Rules Review Committee Bills, Joint Resolutions nullifying Administrative Rules, Unfinished business)

April 27 – 110th day of the session.

Senate Judiciary Committee



Chair
O. Gene Maddox
Republican, 3rd Term
District 38 (Dallas, Polk)



Ranking Member
Jack Holveck
Democrat, 1st Term
Served 9 Terms in House
District 36 (Polk)

Senate Justice Systems Appropriations Subcommittee



Chair
Jeff Angelo

Republican, 1st Term
District 44 (Adams, Decatur, Page,
Ringgold, Taylor, Union)



Vice Chair
Andy McKean

Republican, 3rd Term
Served 7 Terms in House
District 28 (Jones, Linn)



Ranking Member
Robert Dvorsky

Democrat, 3rd Term
Served 4 Terms in House
District 25 (Johnson, Linn)



Chair
O. Gene Maddox
Republican, 3rd Term
District 38 (Dallas, Polk)



Eugene Fraise
Democrat, 5th Term
District 50 (Des Moines, Lee)

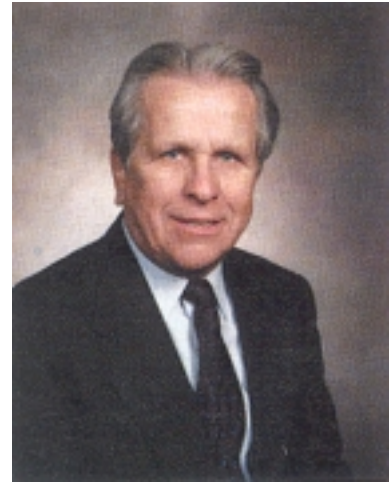
House Leadership



Speaker of the House
Brent Siegrist
Republican, 9th Term
District 84 (Pottawattamie)

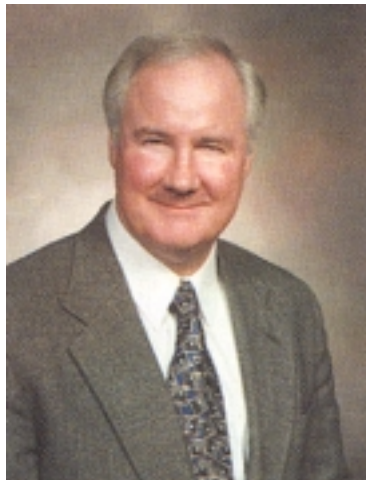


Majority Leader
Christopher Rants
Republican, 5th Term
District 3 (Woodbury)



Minority Leader
Dick Myers
Democrat, 5th Term
District 49 (Johnson)

House Appropriations Committee



Chair
David Millage
Republican, 6th Term
District 41 (Scott)



Ranking Member
Pat Murphy
Democrat, 7th Term
District 36 (Dubuque)

House Judiciary Committee



Chair
Chuck Larson
Republican, 5th Term
District 55 (Linn)



Ranking Member
Keith Kreiman
Democrat, 5th Term
District 92 (Appanoose, Davis,
Monroe, Van Buren)

House Justice Systems Appropriations Subcommittee



Chair
Lance Horbach
Republican, 2nd Term
District 60 (Benton, Black Hawk,
Tama)



Vice Chair
George Eichhorn
Republican, 1st Term
District 14 (Boone, Calhoun,
Hamilton, Webster)



Ranking Member
Paul Bell
Democrat, 5th Term
District 57 (Jasper)

House Justice Systems Appropriations Subcommittee (cont.)



Michael Cormack
Republican, 4th Term
District 13 (Webster)



Libby Jacobs
Republican, 4th Term
District 74 (Polk)



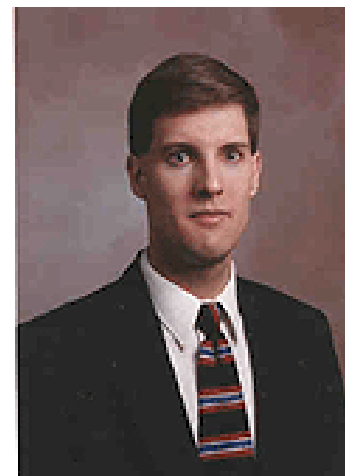
Rick Larkin
Democrat, 5th Term
District 99 (Des Moines, Lee)



Steve Richardson
Democrat, 3rd Term
District 89 (Warren)



Patrick Shey
Republican, 2nd Term
District 52 (Linn)



Mark Tremmel
Democrat, 1st Term
District 93 (Wapello)

Recent Iowa Criminal Decisions

By Ann E. Brenden



Ann Brenden, Assistant Attorney General, is the Editor of the *Iowa Criminal Law Handbook* (2d ed. 1994).

December 2000

In re Detention of Garrin, ___ N.W.2d ___ (Sup. Ct. No. 99-1785) (Iowa 12/20/2000)

Sexually Violent Predator Act not unconstitutional. Because the Sexually Violent Predator Act is a civil statute, it does not implicate the state or federal Ex Post Facto Clauses or Double Jeopardy Clauses; nor does it violate the constitutional rights to substantive due process or equal protection. Finally, this petitioner did not preserve his claim that the statute is vague as applied to him and he had no standing to assert that the act is facially vague.

Jones v. Iowa District Court for Wapello County, ___ N.W.2d ___ (Sup. Ct. No. 98-1937) (Iowa 12/20/2000) ***Discovery — no right to depositions in simple misdemeanor case.*** Defendant has neither statutory nor due process constitutional right to take depositions in simple misdemeanor cases (here, domestic abuse).

State v. Bradford, ___ N.W.2d ___ (Sup. Ct. No. 99-0065) (Iowa 12/20/2000)

Warrantless searches: Terry stop vs. search incident to arrest. Police actions of detaining defendant at the scene of the alleged crime for almost an hour, handcuffing him, placing him in a patrol car, and transporting him to the police station, followed by a second search, exceeded *Terry* investigative search exception. “[T]he removal of a suspect from the scene of the stop generally marks the point at which the Fourth Amendment demands probable cause”. Although these actions constituted an arrest and not merely an investigative stop, the arrest was supported by probable cause to believe defendant had aided and abetted the

harassment of the victim so that the warrantless search was constitutionally permissible as incident to his arrest.

State v. Hawkins, ___ N.W.2d ___ (Sup. Ct. No. 99-017) (Iowa 12/20/2000) ***[1] Perjury B retraction not accomplished by simply dismissing postconviction action.***

Defendant who made perjurious statements in postconviction action (claiming that his guilty plea was involuntary because counsel coerced him to lie) was not deemed to have retracted the statements for the purposes of avoiding a perjury charge when he subsequently dismissed the postconviction action, without more. Further, defense counsel was not ineffective in failing to claim that the dismissal gave rise to the statutory defense of retraction under Iowa Code section 720.2. Retraction involves uncovering the truth, meaning that the lie must be exposed, admitted, and the truth told. Defendant’s dismissal of the postconviction action accomplished none of the essence of retraction. ***[2] Perjury — opinion or belief not generally a basis for charge.*** Generally, one cannot be convicted of perjury based on testimony as to one’s opinion or belief. However, the existence of an opinion or belief can itself be a question of fact. Here, “the issue is whether he actually [held the belief that he was being coerced into pleading guilty] at the time of the guilty plea or only claimed coercion ... to support his postconviction application”, a question of fact.

State v. Iowa District Court for Mahaska County, ___ N.W.2d ___ (Sup. Ct. No. 99-1920) (Iowa 12/20/2000) ***OWI 3rd — suspended sentence allowed upon commitment to Department of Corrections instead of jail.*** District Court has power to impose prison sentence and suspend the entire sentence for OWI 3rd offense, notwithstanding language in



section 321J.2 requiring service of “mandatory minimum” periods of incarceration for people convicted of previous OWIs. Under the jail/prison sentencing scheme used in Iowa, mandatory minimum jail sentences apply only to defendants sentenced to serve their time in jail. No mandatory minimum jail sentence is authorized for prison sentences, and no mandatory minimum prison sentence is authorized for prison sentences.

State v. Poulin, ___ N.W.2d ___ (Sup. Ct. No. 99-1057) (Iowa 12/20/2000) [1] *Search warrant—challenge based on omissions in application.* Defense counsel properly challenged search warrant on Franks grounds, including that review of a warrant allegedly based on false information in the form of factual omissions should take into consideration information beyond the four corners of the warrant application. [2] *Probable cause—sufficient corroboration of confidential informant’s story, including police knowledge of defendant and visitors’ reputations.* Confidential informant’s information was sufficiently corroborated by neighbor’s reports of suspicious activities at defendant’s home, marijuana residue found in the trash behind defendant’s apartment, and officers’ knowledge of the reputation of defendant and his visitors as drug users: “police knowledge of reputation may be an important element in determining probable cause”.

probative vs. prejudicial value. Assuming without deciding the relevance of 404(b) evidence, (that defendant’s wife performed oral sex on him while he watched children play—to prove the intent element of one of four crimes with which defendant was accused—indecent contact with a child) the court abused its discretion in allowing such evidence. Defendant was not convicted of the specific intent crime. He was convicted of second-degree sexual abuse by contact between his mouth and the child’s genitalia; an act the jury was likely to have improperly inferred from the 404(b) evidence. Additionally, the balancing test was not met. The limiting instruction did not forbid the jury from considering the 404(b) evidence in light of all charges, not just the specific intent charge. The danger of unfair prejudice from the 404(b) evidence outweighed its probative value. [2] *“Psychological unavailability” under confrontation clause.* In order for a victim to qualify as psychologically unavailable to satisfy the “unavailability” prong of a confrontation analysis, it must be shown that it would be “relatively impossible and not merely inconvenient” for the witness to attend or testify. Although not an exclusive list (the Court directs the reader to State v. Rojas, 524 N.W.2d 659 (Iowa 1994)), the following factors should be considered: “(1) the probability of psychological injury as a result of testifying, (2) the degree of anticipated injury, (3) the expected duration of the injury, and (4) whether the expected psychological injury is substantially greater than the reaction of the

average victim of a rape, kidnapping or terrorist act”

UNITED STATES SUPREME COURT CRIMINAL CASE

January 17, 2001

Seling v. Young, ___ U.S. ___, (Sup. Ct. No. 99-1185) (U.S. Jan. 17, 2001) *Other state’s sexually violent predator act not unconstitutional as applied.* Washington state’s sexually violent predator act was civil in nature so as not to be punitive “as applied” to a single individual in violation of either the Double Jeopardy or the Ex Post Facto Clauses.

Note: These summaries do not constitute an opinion of the Iowa Attorney General, the Iowa Department of Justice or the Judicial Branch. The descriptions are only intended to serve as a guide to identifying cases of interest. They are not a complete statement of the case.

January 2001

State v. Castaneda, ___ N.W.2d ___ (Sup. Ct. No. 98-0835) (Iowa 1/18/2001) *Sexual abuse and confrontation clause.* [1] 404(b) (“other acts”) evidence:

Court of Appeals Plans Triple Header in Decorah for April: Hear Cases, Meet with Students, Meet with Minnesota and Wisconsin Judges

The Iowa Court of Appeals has a busy lineup for April court week. The nine-member court will be in Decorah, Iowa to hear cases, meet with students of Luther College and meet with appellate judges from Wisconsin and Minnesota for a special continuing legal education program.

The court will hear oral arguments on the Luther College campus, April 3 and 4. Some of the judges will meet with Luther students for lunch both days.

On Wednesday afternoon, Chief Judge Rosemary Sackett and Judge Terry Huitink will be guest speakers at an Introduction to Law class.

On Thursday and Friday, the judges will put on their student hats and participate in a continuing legal education program with judges from the Wisconsin Court of Appeals and the Minnesota Court of Appeals. Each court is responsible for arranging a portion of the program. On Thursday morning, the Iowa Court of Appeals has

arranged for a program about termination of parental rights cases and expedited cases. Ron Hofer, a staff attorney for the Wisconsin Court of Appeals, will speak about appellate writing on Thursday afternoon. Friday morning, the Minnesota Court of Appeals will sponsor a program about the appellate court-practitioner relationship. The education seminar, which is funded by federal funds and contributions from the two other states, will be held at the newly renovated Hotel Winneshiek in Decorah.

"Everyone is excited about the opportunity to visit with courts from similar states with similar problems," said Chief Judge Rosemary Sackett, Iowa Court of Appeals. "This will be particularly helpful to our court because we're still in somewhat of a transition from a six-member court to a

nine-member court." The Minnesota Court of Appeals and the Wisconsin Court of Appeals each have sixteen members. Chief Judge Sackett said that the event was the idea of Chief Judge Thomas Cane of the Wisconsin court. Judge Edward Toussaint is the Chief Judge of the Minnesota Court of Appeals.

While in Decorah the judges will have an opportunity to hear a special lecture at Luther College by Helen Thomas, former White House correspondent for the United Press. Ms. Thomas will speak on Thursday evening.

Since 1998, the Iowa Court of Appeals has regularly heard cases in communities around the state including: Ames, Burlington, Carroll, Cedar Falls, Clinton, Council Bluffs, Okoboji, and Pella.



The members of the court are (front left to right): Judge Terry Huitink, Ireton; Chief Judge Rosemary Sackett Okoboji; Judge Michael Streit, West Des Moines. (back row left to right): Judge Daryl Hecht, Sioux City; Judge Van Zimmer, Vinton; Judge Gayle Vogel, Knoxville; Judge Robert Mahan, Ames; Judge John Miller, Burlington; and Judge Anuradha Vaitheswaran, Des Moines.

Sackett Reelected Chief Judge of Court of Appeals

The Iowa Court of Appeals recently gave its nod of approval to Chief Judge Rosemary Sackett. The Court elected Chief Judge Sackett to serve another two-year term as the head of the nine-member court. This is Judge Sackett's fourth time as chief judge of the court but her second full two-year term. In 1999, she was elected to her first full term. She was also the president of the Council of Chief Judges of Courts of Appeal in 2000.

"I'm both grateful for, and honored by, the Court's vote of confidence," said Chief Judge Sackett.

Chief Judge Sackett noted that the Court is going through a transition, having

expanded from a six-member court to a nine-member court in 1999. Chief Judge Sackett praised her colleagues for their efforts, describing them as "hardworking, intelligent and dedicated."

When asked about the Court's goals for the immediate future, Chief Judge Sackett said, "Like the rest of the Judicial Branch, securing more resources is a top priority for us."

Chief Judge Sackett has served on the Iowa Court of Appeals for 18 years. Prior to her appointment to the Court she worked in the private practice of law for 20 years. She earned her undergraduate degree from Buena Vista and her law degree from Drake.



Chief Judge Rosemary Sackett



Luther College in Decorah will be the site of oral arguments during April for the Court of Appeals.

New Faces

Court of Appeals: **Ann Meyer**, *Des Moines*, **Caroline Carter**, *Des Moines*, Law Clerks.

Juvenile Court Improvement: **Charlotte Nothdorf**, *Davenport*, Secretary-Adoption Opportunities.

District 1: **Sally Machetta**, *Waterloo*, Law Clerk; **Marsha Mason**, Court Reporter.

District 2: **Jennifer Gutzmer**, *Accountant/Auditor*, Mason City; **Gina Schmitt**, *Law Clerk*; **Raymond Reel**, *Eldora*, Magistrate.

District 3: **Duane Hoffmeyer**, *Sioux City*, District Court Judge; **Gloria French**, *Sioux City*, Administrative Secretary.

District 5: **Denielle Austin**, **Michelle Bassett**, **Mary Phillips**, **Katherine Wickett**, **Mark Littlejohn**, **Nicole Rumble**, **Julie Plum**, *Des Moines*, **Teresa Henry**,

Winterset, Judicial Clerks; **Jodi Lyddon**, *Corning*, Trial Court Technician; **Melissa McCollom**, *Des Moines*, Court Attendant; **Jackie Veatch**, *Newton*, Court Reporter; **Shondale Bolden**, *Des Moines*, Financial Aide; **Craig Redshaw**, *Des Moines*, District Finance/Personnel Mgr.

District 6: **Amanda Potterfield**, *Iowa City* District Judge; **Jill Wright**, *Cedar Rapids*, Judicial Clerk.

Milestones: Service Anniversaries

25 Years

Kathleen Mueller, Judicial Clerk, *Muscatine County*.

Sharon Petersen, Trial Court Tech, *Black Hawk County*.

Sharon Overton, Case Coordinator, *Polk County*.

Sharon Modracek, Clerk of Court, *Linn County*.

Kent Decker, Financial Supervisor, *Polk County*.

Charity Madren, Trial Court Supervisor, *Linn County*.

Patricia Sisk, Judicial Clerk, *Scott County*.

Donna Wagoner, Judicial Clerk, *Page County*.

Steven McKillip, Judicial Clerk, *Muscatine County*.

CASA Volunteer Jill Viau Named Child Advocate of the Year

Jill Viau of Adel, a CASA volunteer, was named the Iowa Child Advocate of the Year for her efforts on behalf of abused and neglected children. Chief Justice Louis Lavorato praised Viau for her work during his State of the Judiciary address in January. She received a standing ovation.

Viau, who works as a senior accounting clerk for Wells Fargo Financial, has been volunteering to help children in a variety of programs for the past fifteen years. She started as a “big sister” while in college. Later, she volunteered in Lutheran Social services Friends of New Parents program, Lutheran Social Services Mobile Parenting program, Child Abuse Prevention Council, and HEART Connection, an organization that helps raise the spirits of children with cancer.

Other organizations have recognized Viau for her volunteer efforts including the United Way of Central Iowa, Lutheran Social Services and the Coalition for Children and Family Services. In 1992, Viau was awarded the Governor’s Volunteer Award for her work as a CASA volunteer.

“Jill demonstrates the very best of what it means to be an Iowan,” said Chief Justice Lavorato during the State of the Judiciary message before a joint session of the legislature. “She is not only a remarkable advocate for children, she is a remarkable person.”

The Iowa Supreme Court and the Friends of Iowa CASA sponsor the annual Child Advocate of the Year award. It was established to recognize Iowans who have demonstrated outstanding efforts to make a positive difference in the lives of children.



Chief Justice Louis Lavorato with Jill Viau, Child Advocate of the Year

Each year, the award itself is a unique artwork by an Iowa artist that symbolizes the meaning of the award. This year’s award was a watercolor painting by artist Dennis Adams.

Judicial Council: Chief Judges



From left to right: John Nagra, 7th District; Richard Vipond, 3rd District; Ron Schechtman, 2nd District; Dave Hendrickson, 8th District; Rosemary Sackett, Court of Appeals; Charles Smith, 4th District; David Remley, 6th District; Art Gamble, 5th District; Alan Pearson, 1st District.

District Court Administrators



Front row from left to right: Beth Baldwin, 5th District; Deb Dice, 8th District; Karen Hibben-Levi, 1st District; Carroll Edmondson, 6th District. Back row: Tom Betts, 7th District; Kent Wirth, 4th District; Leesa McNeil, 3rd District; David Hayward, 2nd District.

Committee To Assess Need for Improvements in Court Interpreter Services

The Iowa Supreme Court recently gave the green light to a study of court interpreter services that was temporarily put on hold for budget reasons. The Court directed the committee to assess the need for improvements in interpreter services and, if improvements are needed, to recommend a plan for addressing them.

The chair of the committee is **Chief Judge Richard Vipond** of the Third Judicial District. The committee includes the following members:

Kathryn Baumann-Reese, Director of Deaf Services, Des Moines;

James Benzoni, Attorney, Des Moines;

Victoria Dominguez, Asst. County Attorney, Iowa City;

Hon. Mary Lou Freeman, State Senator, Alta;

Jackie Harison, Clerk of Court, Waterloo;

Sylvia Kreamalmyer, Court Reporter, Burlington;

Guadaloupe McCarney, Spanish Interpreter, Des Moines;

Hon. Clarence Meldrum, Magistrate, Council Bluffs;

John Messina, Appellate Defender, Des Moines;

Hon. Karen Romano, District Associate Judge, Des Moines;

Elizabeth Salinas Newby, Director, Commission on Latino Affairs, Des Moines;

William Snyder, Director of HR, Judicial Branch, Des Moines;

Jane Sweaney, Asst. District Court Administrator, Cedar Rapids;

Hon. James Weaver, District Associate Judge, Muscatine;

John Wilken, Deputy Chief, IA Bureau of Refugee Services;

Ta-Yu Yang, Attorney, Des Moines.

Changes to Court Rules: July-December 2000

• Appellate Procedure, Rule 13- **Filing and service of briefs and amendments** (Effective 1-02-01)

Adds new section (b) on pro se supplemental proof briefs. States that any criminal defendant or applicant for postconviction relief who wishes to file a pro se supplemental brief must file a motion to do so within fifteen days of service of the proof brief filed by their counsel. If the motion is granted, the brief must be filed within 30 days. Counsel for the defendant or applicant shall serve and file the final copies of the pro se supplemental brief.

Civil Procedure, Rule 48(b)- **Commencement of Actions** (Effective 1-02-01)

Adds option of obtaining cover sheet from Judicial Branch web site and allows for modifications to the cover sheet when deemed necessary.

Appellate Procedure, Rule 104- **F frivolous appeals; withdrawal of counsel** (Effective 10-16-00)

Removes gender-specific language in references to the counsel and requires counsel's notice to the defendant to

advise that failure to file a response could result in a waiver of the defendant's claims in any future post-conviction actions.

Appellate Procedure, Rule 15(a)- **Duty of Appellant** (Effective 10-16-00)

Adds the provision that trial briefs *may* be included in the appendix if necessary to preserve error on an issue to be argued on appeal.

2001 Judicial Education Calendar

Date	Conference	Location
April 19-20	Understanding Sexual Violence	Hotel Fort Des Moines Des Moines
May 30-31 and June 1	Juvenile Court Officers	Four Points Sheraton West Des Moines
June 18-20	New Judge Orientation	Hotel Fort Des Moines Des Moines
June 19	Computer Training	Hotel Fort Des Moines Des Moines
June 20-22	Judges	Hotel Fort Des Moines Des Moines
June 22-23	Court Reporters	Collins Plaza Cedar Rapids
June 27-28	District Court Clerks	Four Points Sheraton West Des Moines
July 18	New Magistrate Orientation	Four Points Sheraton West Des Moines
July 19-20	Magistrate	Four Points Sheraton West Des Moines
August 6-10	Iowa Judicial Institute	Drake Law School Des Moines
September 19-21	Juvenile Court	Hotel Fort Des Moines Des Moines
October 18-19	District Court Clerks	Four Points Sheraton West Des Moines
November 13	Computer Training	Hotel Fort Des Moines Des Moines
November 14-16	Judges	Hotel Fort Des Moines Des Moines

State of Judiciary Reception



Chief Justice Lavorato and Governor Vilsack

Retirement Celebration



Kaye Lescher, Des Moines, recently retired as secretary for State Court Administration after 25 years of service with the Judicial Branch. She is pictured here with State Court Administrator Bill O'Brien (left) and Deputy State Court Administrator David Boyd (right).

Supreme Court Sends Historic Murals to the Cleaner

In early January, the Supreme Court shipped ten historic murals that once decorated the ceiling of its courtroom to Denver, Colorado to be cleaned. The murals will eventually be installed in prominent public areas in the new Judicial Branch Building currently under construction on the Capitol campus.

The Beginning—1886.

The murals were designed by August Knorr, a Des Moines decorator, who was responsible for decorating the State Capitol in the 1880s. Knorr's designs were sent to Germany to painter Fritz Melzer who was "much in vogue as a decorative artist" at the time. The murals are oil paint on linen canvas. They cost \$949.76 in 1886.

Themes of Justice.

The largest mural, entitled Columbia, shows Columbia sitting on her throne, which is perched on a large globe. To her left is Justice, paying homage, and to her right is Iowa holding a club and a coat of arms, ready to defend Columbia.

Another large mural shows Justice and Peace seated together in a throne atop clouds. Justice holds a scale in one hand and a sword in her other hand, poised ready to strike. Peace looks on serenely as a partially robed man whose face is said to resemble President Ulysses S. Grant puts down a one-man Roman rebellion.

The third large mural shows Justice seated at her throne. She is holding a scale in one hand and a sword in the other. To her left stands Columbia who holds a shield decorated in stars and stripes. Columbia is standing ready to defend Justice's decisions. To the right of Justice stands a woman who is rejoicing because the decision was in her favor. Another figure is grieving because the decision was against her.

A medium sized mural, depicts a reclining, partially nude Ceres, the goddess of

agriculture. This mural will no doubt be the favorite of school children touring the new judicial building.

There are six small oval murals, each contains a cherubic looking child called a "genius" (a tutelary deity or guardian spirit). Each genius is engaged in an agricultural task. The six ovals were originally located around the Ceres mural.

The Fire—1904.

The murals were removed from the courtroom in 1904 after a fire that damaged the House chambers one floor above the courtroom, and were placed in storage. In 1907, the murals were installed in the old State Historical Building.

Restoration—2001.

The Supreme Court retained Art conservator (and former Iowan) Randy Ash of



"Justice and Peace"

Denver, Colorado, to remove the murals, clean and stabilize them, and prepare them for installation in the new building. Ash and an assistant worked around the clock for one week in mid-December to carefully peel the murals off the walls and wrap them for shipping.

According to Ash, the murals were



"Ceres"

mounted directly on the wall with a simple adhesive probably made from wheat flour and water. Because the adhesive had substantially deteriorated, Ash was able to pull the murals off the wall using a cake spatula and artist's knife. Some of the



Randy and Walter roll mural around a padded shipping tube.

murals had cuts and tears that likely occurred when they were removed from the Capitol. Prior to removal, Ash secured the tears with a special conservation tool—duct tape.

Ash attributes much of the dark appearance of the murals to smoke damage from the 1904 fire. In addition, when the murals were installed in the Old Historical Building, an artist painted the wall surrounding the murals to create a larger background. The artist even took care to mix the paint so that it matched the dark colors caused by the smoke damage.

After the murals are cleaned and restored, Ash will mount them on aluminum honeycomb panels so that in the future they can be easily moved.

The restoration project will cost up to \$174,000. Funds for the project will come from the building construction budget as part of the mandatory art requirement for new State buildings.



Art Conservator Randy Ash and her assistant Walter Davis loosen canvas from wall.



Murals packed for shipping to Denver studios.

Wanted: Your Web Page Suggestions

The Judicial Branch is in the process of revamping its web site, www.judicial.state.ia.us.

If you have any suggestions for changes to the site, please contact Cheryl Thrailkill at Cheryl.L.Thrailkill@jb.state.ia.us.



Proposal for new home page

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